

108TH CONGRESS  
1ST SESSION

# S. 1664

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to provide for the enhanced review of covered pesticide products, to authorize fees for certain pesticide products, and to extend and improve the collection of maintenance fees.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2003

Mr. COCHRAN (for himself, Mr. HARKIN, Mr. ROBERTS, Mr. CRAIG, Mr. CRAPO, Mr. CHAMBLISS, Mr. MILLER, Mr. COLEMAN, Mr. NELSON of Nebraska, Mr. KOHL, Mr. TALENT, Mr. LUGAR, Mr. CONRAD, Ms. LANDRIEU, and Mr. BREAUX) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to provide for the enhanced review of covered pesticide products, to authorize fees for certain pesticide products, and to extend and improve the collection of maintenance fees.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PESTICIDE REGISTRATION.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Pesticide Registration Improvement Act of 2003”.

1       (b) REGISTRATION REQUIREMENTS FOR ANTI-  
 2 MICROBIAL PESTICIDES.—Section 3(h) of the Federal In-  
 3 secticide, Fungicide, and Rodenticide Act (7 U.S.C.  
 4 136a(h)) is amended—

5           (1) in paragraph (2)(F), by striking “90 to 180  
 6 days” and inserting “120 days”; and

7           (2) in paragraph (3)—

8               (A) in subparagraph (D)(vi), by striking  
 9 “240 days” and inserting “120 days”; and

10            (B) in subparagraph (F), by adding at the  
 11 end the following:

12                   “(iv) LIMITATION.—Notwithstanding  
 13 clause (ii), the failure of the Administrator  
 14 to notify an applicant for an amendment to  
 15 a registration for an antimicrobial pesticide  
 16 shall not be judicially reviewable in a Fed-  
 17 eral or State court if the amendment re-  
 18 quires scientific review of data within—

19                       “(I) the time period specified in  
 20 subparagraph (D)(vi), in the absence  
 21 of a final regulation under subpara-  
 22 graph (B); or

23                       “(II) the time period specified in  
 24 paragraph (2)(F), if adopted in a

1 final regulation under subparagraph  
2 (B).”.

3 (c) MAINTENANCE FEES.—

4 (1) AMOUNTS FOR REGISTRANTS.—Section  
5 4(i)(5) of the Federal Insecticide, Fungicide, and  
6 Rodenticide Act (7 U.S.C. 136a–1(i)(5)) is amend-  
7 ed—

8 (A) in subparagraph (A)—

9 (i) by striking “(A) Subject” and in-  
10 sserting the following:

11 “(A) IN GENERAL.—Subject”; and

12 (ii) by striking “of—” and all that  
13 follows through “additional registration”  
14 and inserting “for each registration”;

15 (B) in subparagraph (D)—

16 (i) by striking “(D) The” and insert-  
17 ing the following:

18 “(D) MAXIMUM AMOUNT OF FEES FOR  
19 REGISTRANTS.—The”;

20 (ii) in clause (i), by striking “shall be  
21 \$55,000; and” and inserting “shall be—

22 “(I) for fiscal year 2004, \$84,000;

23 “(II) for each of fiscal years 2005 and  
24 2006, \$87,000;

1 “(III) for fiscal year 2007, \$68,000;

2 and

3 “(IV) for fiscal year 2008, \$55,000;

4 and”; and

5 (iii) in clause (ii), by striking “shall  
6 be \$95,000.” and inserting “shall be—

7 “(I) for fiscal year 2004, \$145,000;

8 “(II) for each of fiscal years 2005 and  
9 2006, \$151,000;

10 “(III) for fiscal year 2007, \$117,000;

11 and

12 “(IV) for fiscal year 2008, \$95,000.”;

13 and

14 (C) in subparagraph (E)—

15 (i) by striking “(E)(i) For” and in-  
16 serting the following:

17 “(E) MAXIMUM AMOUNT OF FEES FOR  
18 SMALL BUSINESSES.—

19 “(i) IN GENERAL.—For”;

20 (ii) by indenting the margins of sub-  
21 clauses (I) and (II) of clause (i) appro-  
22 priately; and

23 (iii) in clause (i)—

1 (I) subclause (I), by striking  
 2 “shall be \$38,500; and” and inserting  
 3 “shall be—

4 “(aa) for fiscal year 2004,  
 5 \$59,000;

6 “(bb) for each of fiscal years  
 7 2005 and 2006, \$61,000;

8 “(cc) for fiscal year 2007,  
 9 \$48,000; and

10 “(dd) for fiscal year 2008,  
 11 \$38,500; and”; and

12 (II) in subclause (II), by striking  
 13 “shall be \$66,500.” and inserting  
 14 “shall be—

15 “(aa) for fiscal year 2004,  
 16 \$102,000;

17 “(bb) for each of fiscal years  
 18 2005 and 2006, \$106,000;

19 “(cc) for fiscal year 2007,  
 20 \$82,000; and

21 “(dd) for fiscal year 2008,  
 22 \$66,500.”.

23 (2) TOTAL AMOUNT OF FEES.—Section  
 24 4(i)(5)(C) of the Federal Insecticide, Fungicide, and

1 Rodenticide Act (7 U.S.C. 136(a)–1(i)(5)(C)) is  
 2 amended—

3 (A) by striking “(C)(i) The” and inserting  
 4 the following:

5 “(C) TOTAL AMOUNT OF FEES.—The”;  
 6 and

7 (B) by striking “aggregate amount” and  
 8 all that follows through clause (ii) and inserting  
 9 “aggregate amount of—

10 “(i) for fiscal year 2004, \$26,000,000;

11 “(ii) for fiscal year 2005,  
 12 \$27,000,000;

13 “(iii) for fiscal year 2006,  
 14 \$27,000,000;

15 “(iv) for fiscal year 2007,  
 16 \$21,000,000; and

17 “(v) for fiscal year 2008,  
 18 \$15,000,000.”.

19 (3) DEFINITION OF SMALL BUSINESS.—Section  
 20 4(i)(5)(E)(ii) of the Federal Insecticide, Fungicide,  
 21 and Rodenticide Act (7 U.S.C. 136a–1(i)(5)(E)(ii))  
 22 is amended—

23 (A) by redesignating subclauses (I) and  
 24 (II) as items (aa) and (bb), respectively, and in-  
 25 denting the margins appropriately;

(B) by striking “(ii) For purposes of” and inserting the following:

“(ii) DEFINITION OF SMALL BUSINESS.—

“(I) IN GENERAL.—In”;

(C) in item (aa) (as so redesignated), by striking “150” and inserting “500”;

(D) in item (bb) (as so redesignated), by striking “gross revenue from chemicals that did not exceed \$40,000,000.” and inserting “global gross revenue from pesticides that did not exceed \$60,000,000.”; and

(E) by adding at the end the following:

“(II) AFFILIATES.—

“(aa) IN GENERAL.—In the case of a business entity with 1 or more affiliates, the gross revenue limit under subclause (I)(bb) shall apply to the gross revenue for the entity and all of the affiliates of the entity, including parents and subsidiaries, if applicable.

“(bb) AFFILIATED PERSONS.—For the purpose of item

(aa), persons are affiliates of each other if, directly or indirectly, either person controls or has the power to control the other person, or a third person controls or has the power to control both persons.

“(cc) INDICIA OF CONTROL.—For the purpose of item (aa), indicia of control include interlocking management or ownership, identity of interests among family members, shared facilities and equipment, and common use of employees.”.

(4) EXTENSION OF AUTHORITY FOR COLLECTING MAINTENANCE FEES.—Section 4(i)(5)(H) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)(5)(H)) is amended by striking “2003” and inserting “2008”.

(5) REREGISTRATION AND OTHER ACTIVITIES.—Section 4(g)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136a–1(g)(2)) is amended—



1 (A) by striking subparagraph (A) and in-  
 2 serting the following:

3 “(A) IN GENERAL.—The Administrator  
 4 shall make a determination as to eligibility for  
 5 reregistration—

6 “(i) for all active ingredients subject  
 7 to reregistration under this section for  
 8 which tolerances or exemptions from toler-  
 9 ances are required under the Federal  
 10 Food, Drug, and Cosmetic Act (21 U.S.C.  
 11 301 et seq.), not later than the last date  
 12 for tolerance reassessment established  
 13 under section 408(q)(1)(C) of that Act (21  
 14 U.S.C. 346a(q)(1)(C)); and

15 “(ii) for all other active ingredients  
 16 subject to reregistration under this section,  
 17 not later than October 3, 2008.”;

18 (B) in subparagraph (B)—

19 (i) by striking “(B) Before” and in-  
 20 serting the following:

21 “(B) PRODUCT-SPECIFIC DATA.—

22 “(i) IN GENERAL.—Before”;

23 (ii) by striking “The Administrator”  
 24 and inserting the following:

25 “(ii) TIMING.—

1 “(I) IN GENERAL.—Subject to  
 2 subclause (II), the Administrator”;  
 3 and  
 4 (iii) by adding at the end the fol-  
 5 lowing:

6 “(II) EXTRAORDINARY CIR-  
 7 CUMSTANCES.—In the case of extraor-  
 8 dinary circumstances, the Adminis-  
 9 trator may provide such a longer pe-  
 10 riod, of not more than 2 additional  
 11 years, for submission of data to the  
 12 Administrator under this subpara-  
 13 graph.”; and

14 (C) in subparagraph (D)—

15 (i) by striking “(D) If” and inserting  
 16 the following:

17 “(D) DETERMINATION TO NOT REREG-  
 18 ISTER.—

19 “(i) IN GENERAL.—If”; and

20 (ii) by adding at the end the fol-  
 21 lowing:

22 “(ii) TIMING FOR REGULATORY AC-  
 23 TION.—Regulatory action under clause (i)  
 24 shall be completed as expeditiously as pos-  
 25 sible.”.

1 (d) OTHER FEES.—

2 (1) IN GENERAL.—Section 4(i)(6) of the Fed-  
 3 eral Insecticide, Fungicide, and Rodenticide Act (7  
 4 U.S.C. 136a–1(i)(6)) is amended—

5 (A) by striking “During” and inserting  
 6 “Except as provided in section 33, during”; and

7 (B) by striking “2003” and inserting  
 8 “2010”.

9 (2) TOLERANCE FEES.—Notwithstanding sec-  
 10 tion 408(m)(1) of the Federal Food, Drug, and Cos-  
 11 metic Act (21 U.S.C. 346a(m)(1)), the Adminis-  
 12 trator of the Environmental Protection Agency shall  
 13 not collect any tolerance fees under that section dur-  
 14 ing the period beginning on the effective date of this  
 15 section and ending on September 30, 2008.

16 (e) EXPEDITED PROCESSING OF SIMILAR APPLICA-  
 17 TIONS.—Section 4(k)(3) of the Federal Insecticide, Fun-  
 18 gicide, and Rodenticide Act (7 U.S.C. 136a–1(k)(3)) is  
 19 amended—

20 (1) in the paragraph heading, by striking “EX-  
 21 PEDITED” and inserting “REVIEW OF INERT INGRE-  
 22 DIENTS; EXPEDITED”; and

23 (2) in subparagraph (A)—

24 (A) by striking “1997” and all that follows  
 25 through “of the maintenance fees” and insert-

1           ing “2004 through 2006, approximately  
2           \$3,300,000, and for each of fiscal years 2007  
3           and 2008, between  $\frac{1}{8}$  and  $\frac{1}{7}$ , of the mainte-  
4           nance fees”;

5                 (B) by redesignating clauses (i), (ii), and  
6           (iii) as subclauses (I), (II) and (III), respec-  
7           tively, and indenting appropriately; and

8                 (C) by striking “resources to assure the  
9           expedited processing and review of any applica-  
10          tion that” and inserting “resources—

11                         “(i) to review and evaluate new inert  
12                         ingredients; and

13                         “(ii) to ensure the expedited proc-  
14                         essing and review of any application  
15                         that—”.

16          (f) PESTICIDE REGISTRATION SERVICE FEES.—The  
17          Federal Insecticide, Fungicide, and Rodenticide Act (7  
18          U.S.C. 136a et seq.) is amended—

19                 (1) by redesignating sections 33 and 34 (7  
20          U.S.C. 136x, 136y) as sections 34 and 35, respec-  
21          tively; and

22                 (2) by inserting after section 32 (7 U.S.C.  
23          136w–7) the following:

1 **“SEC. 33. PESTICIDE REGISTRATION SERVICE FEES.**

2 “(a) DEFINITION OF COSTS.—In this section, the  
3 term ‘costs’, when used with respect to review and deci-  
4 sionmaking pertaining to an application for which reg-  
5 istration service fees are paid under this section, means—

6 “(1) costs to the extent that—

7 “(A) officers and employees provide direct  
8 support for the review and decisionmaking for  
9 covered pesticide applications, associated toler-  
10 ances, and corresponding risk and benefits in-  
11 formation and analyses;

12 “(B) persons and organizations under con-  
13 tract with the Administrator engage in the re-  
14 view of the applications, and corresponding risk  
15 and benefits information and assessments; and

16 “(C) advisory committees and other ac-  
17 credited persons or organizations, on the re-  
18 quest of the Administrator, engage in the peer  
19 review of risk or benefits information associated  
20 with covered pesticide applications;

21 “(2) costs of management of information, and  
22 the acquisition, maintenance, and repair of computer  
23 and telecommunication resources (including soft-  
24 ware), used to support review of pesticide applica-  
25 tions, associated tolerances, and corresponding risk  
26 and benefits information and analyses; and

1           “(3) costs of collecting registration service fees  
2           under subsections (b) and (c) and reporting, audit-  
3           ing, and accounting under this section.

4           “(b) FEES.—

5           “(1) IN GENERAL.—Effective beginning in fis-  
6           cal year 2004, the Administrator shall assess and  
7           collect covered pesticide registration service fees in  
8           accordance with this section.

9           “(2) COVERED PESTICIDE REGISTRATION AP-  
10          PLICATIONS.—

11           “(A) IN GENERAL.—An application for the  
12           registration of a pesticide covered by this Act  
13           that is received by the Administrator on or  
14           after October 1, 2003, shall be subject to a reg-  
15           istration service fee under this section.

16           “(B) EXISTING APPLICATIONS.—

17           “(i) IN GENERAL.—Subject to clause  
18           (ii), an application for the registration of a  
19           pesticide that was submitted to the Admin-  
20           istrator before October 1, 2003, and is  
21           pending on the date of enactment of the  
22           Pesticide Registration Improvement Act of  
23           2003, shall be subject to a service fee  
24           under this section if the application is for  
25           the registration of a new active ingredient

1 that is not listed in the Registration Divi-  
2 sion 2003 Work Plan of the Office of Pes-  
3 ticide Programs of the Environmental Pro-  
4 tection Agency.

5 “(ii) TOLERANCE OR EXEMPTION  
6 FEES.—The amount of any fee otherwise  
7 payable for an application described in  
8 clause (i) under this section shall be re-  
9 duced by the amount of any fees paid to  
10 support the related petition for a pesticide  
11 tolerance or exemption under the Federal  
12 Food, Drug, and Cosmetic Act (21 U.S.C.  
13 301 et seq.).

14 “(C) DOCUMENTATION.—An application  
15 subject to a registration service fee under this  
16 section shall be submitted with documentation  
17 certifying—

18 “(i) payment of the registration serv-  
19 ice fee; or

20 “(ii) a request for a waiver from or  
21 reduction of the registration service fee.

22 “(3) SCHEDULE OF COVERED APPLICATIONS  
23 AND REGISTRATION SERVICE FEES.—

24 “(A) IN GENERAL.—Not later than 30  
25 days after the effective date of the Pesticide

1 Registration Improvement Act of 2003, the Ad-  
2 ministrator shall publish in the Federal Reg-  
3 ister a schedule of covered pesticide registration  
4 applications and corresponding registration  
5 service fees.

6 “(B) REPORT.—Subject to paragraph (6),  
7 the schedule shall be the same as the applicable  
8 schedule appearing in the Congressional Record  
9 on pages S11631 through S11633, dated Sep-  
10 tember 17, 2003.

11 “(4) PENDING PESTICIDE REGISTRATION AP-  
12 PPLICATIONS.—

13 “(A) IN GENERAL.—An applicant that  
14 submitted a registration application to the Ad-  
15 ministrator before October 1, 2003, but that is  
16 not required to pay a registration service fee  
17 under paragraph (2)(B), may, on a voluntary  
18 basis, pay a registration service fee in accord-  
19 ance with paragraph (2)(B).

20 “(B) VOLUNTARY FEE.—The Adminis-  
21 trator may not compel payment of a registra-  
22 tion service fee for an application described in  
23 subparagraph (A).

24 “(C) DOCUMENTATION.—An application  
25 for which a voluntary registration service fee is



1           paid under this paragraph shall be submitted  
2           with documentation certifying—

3                   “(i) payment of the registration serv-  
4                   ice fee; or

5                   “(ii) a request for a waiver from or  
6                   reduction of the registration service fee.

7           “(5) RESUBMISSION OF PESTICIDE REGISTRA-  
8           TION APPLICATIONS.—If a pesticide registration ap-  
9           plication is submitted by a person that paid the fee  
10          for the application under paragraph (2), is deter-  
11          mined by the Administrator to be complete, and is  
12          not approved or is withdrawn (without a waiver or  
13          refund), the submission of the same pesticide reg-  
14          istration application by the same person (or a li-  
15          censee, assignee, or successor of the person) shall  
16          not be subject to a fee under paragraph (2).

17          “(6) FEE ADJUSTMENT.—Effective for a cov-  
18          ered pesticide registration application received on or  
19          after October 1, 2005, the Administrator shall—

20                   “(A) increase by 5 percent the service fee  
21                   payable for the application under paragraph  
22                   (3); and

23                   “(B) publish in the Federal Register the  
24                   revised registration service fee schedule.

25          “(7) WAIVERS AND REDUCTIONS.—

1           “(A) IN GENERAL.—An applicant for a  
2 covered pesticide registration may request the  
3 Administrator to waive or reduce the amount of  
4 a registration service fee payable under this sec-  
5 tion under the circumstances described in sub-  
6 paragraphs (D) through (G).

7           “(B) DOCUMENTATION.—

8           “(i) IN GENERAL.—A request for a  
9 waiver from or reduction of the registra-  
10 tion service fee shall be accompanied by  
11 appropriate documentation demonstrating  
12 the basis for the waiver or reduction.

13           “(ii) CERTIFICATION.—The applicant  
14 shall provide to the Administrator a writ-  
15 ten certification, signed by a responsible  
16 officer, that the documentation submitted  
17 to support the waiver or reduction request  
18 is accurate.

19           “(iii) INACCURATE DOCUMENTA-  
20 TION.—An application shall be subject to  
21 the applicable registration service fee pay-  
22 able under paragraph (3) if, at any time,  
23 the Administrator determines that—

1 “(I) the documentation sup-  
2 porting the waiver or reduction re-  
3 quest is not accurate; or

4 “(II) based on the documentation  
5 or any other information, the waiver  
6 or reduction should not have been  
7 granted or should not be granted.

8 “(C) DETERMINATION TO GRANT OR DENY  
9 REQUEST.—As soon as practicable, but not  
10 later than 60 days, after the date on which the  
11 Administrator receives a request for a waiver or  
12 reduction of a registration service fee under this  
13 paragraph, the Administrator shall—

14 “(i) determine whether to grant or  
15 deny the request; and

16 “(ii) notify the applicant of the deter-  
17 mination.

18 “(D) MINOR USES.—

19 “(i) IN GENERAL.—The Administrator  
20 may waive or reduce a registration service  
21 fee for an application for minor uses for a  
22 pesticide.

23 “(ii) SUPPORTING DOCUMENTA-  
24 TION.—An applicant requesting a waiver  
25 under this subparagraph shall provide sup-

1           porting documentation that demonstrates,  
2           to the satisfaction of the Administrator,  
3           that anticipated revenues from the uses  
4           that are the subject of the application  
5           would be insufficient to justify imposition  
6           of the full application fee.

7           “(E) IR-4 WAIVER.—The Administrator  
8           shall waive the registration service fee for an  
9           application if the Administrator determines  
10          that—

11               “(i) the application is solely associated  
12               with a tolerance petition submitted in con-  
13               nection with the Inter-Regional Project  
14               Number 4 (IR-4) as described in section 2  
15               of Public Law 89-106 (7 U.S.C. 450i(e));  
16               and

17               “(ii) the waiver is in the public inter-  
18               est.

19          “(F) SMALL BUSINESSES.—

20               “(i) IN GENERAL.—The Administrator  
21               shall waive 50 percent of the registration  
22               service fees payable by an entity for a cov-  
23               ered pesticide registration application  
24               under this section if the entity is a small

1 business (as defined in section  
2 4(i)(5)(E)(ii)) at the time of application.

3 “(ii) WAIVER OF FEES.—The Admin-  
4 istrator shall waive all of the registration  
5 service fees payable by an entity under this  
6 section if the entity—

7 “(I) is a small business (as de-  
8 fined in section 4(i)(5)(E)(ii)) at the  
9 time of application; and

10 “(II) has average annual global  
11 gross revenues described in section  
12 4(i)(5)(E)(ii)(I)(bb) that does not ex-  
13 ceed \$10,000,000, at the time of ap-  
14 plication.

15 “(iii) FORMATION FOR WAIVER.—The  
16 Administrator shall not grant a waiver  
17 under this subparagraph if the Adminis-  
18 trator determines that the entity submit-  
19 ting the application has been formed or  
20 manipulated primarily for the purpose of  
21 qualifying for the waiver.

22 “(iv) DOCUMENTATION.—An entity  
23 requesting a waiver under this subpara-  
24 graph shall provide to the Administrator—

1 “(I) documentation dem-  
 2 onstrating that the entity is a small  
 3 business (as defined in section  
 4 4(i)(5)(E)(ii)) at the time of applica-  
 5 tion; and

6 “(II) if the entity is requesting a  
 7 waiver of all registration service fees  
 8 payable under this section, docu-  
 9 mentation demonstrating that the en-  
 10 tity has an average annual global  
 11 gross revenues described in section  
 12 4(i)(5)(E)(ii)(I)(bb) that does not ex-  
 13 ceed \$10,000,000, at the time of ap-  
 14 plication.

15 “(G) FEDERAL AND STATE AGENCY EX-  
 16 EMPTIONS.—An agency of the Federal Govern-  
 17 ment or a State government shall be exempt  
 18 from covered registration service fees under this  
 19 section.

20 “(8) REFUNDS.—

21 “(A) EARLY WITHDRAWALS.—If, during  
 22 the first 60 days after the beginning of the ap-  
 23 plicable decision time review period under sub-  
 24 section (f)(3), a covered pesticide registration  
 25 application is withdrawn by the applicant, the

1 Administrator shall refund all but 10 percent of  
2 the total registration service fee payable under  
3 paragraph (3) for the application.

4 “(B) WITHDRAWALS AFTER THE FIRST 60  
5 DAYS OF DECISION REVIEW TIME PERIOD.—

6 “(i) IN GENERAL.—If a covered pes-  
7 ticide registration application is withdrawn  
8 after the first 60 days of the applicable de-  
9 cision time review period, the Adminis-  
10 trator shall determine what portion, if any,  
11 of the total registration service fee payable  
12 under paragraph (3) for the application  
13 may be refunded based on the proportion  
14 of the work completed at the time of with-  
15 drawal.

16 “(ii) TIMING.—The Administrator  
17 shall—

18 “(I) make the determination de-  
19 scribed in clause (i) not later than 90  
20 days after the date the application is  
21 withdrawn; and

22 “(II) provide any refund as soon  
23 as practicable after the determination.

24 “(C) DISCRETIONARY REFUNDS.—

1           “(i) IN GENERAL.—In the case of a  
2           pesticide registration application that has  
3           been filed with the Administrator and has  
4           not been withdrawn by the applicant, but  
5           for which the Administrator has not yet  
6           made a final determination, the Adminis-  
7           trator may refund a portion of a covered  
8           registration service fee if the Administrator  
9           determines that the refund is justified.

10           “(ii) BASIS.—The Administrator may  
11           provide a refund for an application under  
12           this subparagraph—

13                   “(I) on the basis that, in review-  
14                   ing the application, the Administrator  
15                   has considered data submitted in sup-  
16                   port of another pesticide registration  
17                   application; or

18                   “(II) on the basis that the Ad-  
19                   ministrator completed portions of the  
20                   review of the application before the ef-  
21                   fective date of this section.

22           “(D) CREDITED FEES.—In determining  
23           whether to grant a refund under this para-  
24           graph, the Administrator shall take into ac-



1           count any portion of the registration service  
2           fees credited under paragraph (2) or (4).

3           “(c) PESTICIDE REGISTRATION FUND.—

4           “(1) ESTABLISHMENT.—There is established in  
5           the Treasury of the United States a Pesticide Reg-  
6           istration Fund to be used in carrying out this sec-  
7           tion (referred to in this section as the ‘Fund’), con-  
8           sisting of—

9           “(A) such amounts as are deposited in the  
10          Fund under paragraph (2);

11          “(B) any interest earned on investment of  
12          amounts in the Fund under paragraph (4); and

13          “(C) any proceeds from the sale or re-  
14          demption of investments held in the Fund.

15          “(2) DEPOSITS IN FUND.—Subject to para-  
16          graph (4), the Administrator shall deposit fees col-  
17          lected under this section in the Fund.

18          “(3) EXPENDITURES FROM FUND.—

19          “(A) IN GENERAL.—Subject to subpara-  
20          graphs (B) and (C) and paragraph (4), the Ad-  
21          ministrator may make expenditures from the  
22          Fund—

23                 “(i) to cover the costs associated with  
24                 the review and decisionmaking pertaining  
25                 to all applications for which registration

1 service fees have been paid under this sec-  
2 tion; and

3 “(ii) to otherwise carry out this sec-  
4 tion.

5 “(B) WORKER PROTECTION.—For each of  
6 fiscal years 2004 through 2008, the Adminis-  
7 trator shall use approximately  $\frac{1}{17}$  of the  
8 amount in the Fund (but not more than  
9 \$1,000,000, and not less than \$750,000, for  
10 any fiscal year) to enhance current scientific  
11 and regulatory activities related to worker pro-  
12 tection.

13 “(C) NEW INERT INGREDIENTS.—For each  
14 of fiscal years 2004 and 2005, the Adminis-  
15 trator shall use approximately  $\frac{1}{34}$  of the  
16 amount in the Fund (but not to exceed  
17 \$500,000 for any fiscal year) for the review and  
18 evaluation of new inert ingredients.

19 “(4) COLLECTIONS AND APPROPRIATIONS  
20 ACTS.—The fees authorized by this section and  
21 amounts deposited in the Fund—

22 “(A) shall be collected and made available  
23 for obligation only to the extent provided in ad-  
24 vance in appropriations Acts; and

1           “(B) shall be available without fiscal year  
2           limitation.

3           “(5) UNUSED FUNDS.—Amounts in the Fund  
4           not currently needed to carry out this section shall  
5           be—

6           “(A) maintained readily available or on de-  
7           posit;

8           “(B) invested in obligations of the United  
9           States or guaranteed by the United States; or

10          “(C) invested in obligations, participations,  
11          or other instruments that are lawful invest-  
12          ments for fiduciary, trust, or public funds.

13          “(d) ASSESSMENT OF FEES.—

14          “(1) DEFINITION OF COVERED FUNCTIONS.—In  
15          this subsection, the term ‘covered functions’ means  
16          functions of the Office of Pesticide Programs of the  
17          Environmental Protection Agency, as identified in  
18          key programs and projects of the final operating  
19          plan for the Environmental Protection Agency sub-  
20          mitted as part of the budget process for fiscal year  
21          2002, regardless of any subsequent transfer of 1 or  
22          more of the functions to another office or agency or  
23          the subsequent transfer of a new function to the Of-  
24          fice of Pesticide Programs.

1           “(2) MINIMUM AMOUNT OF APPROPRIATIONS.—

2       Registration service fees may not be assessed for a  
3       fiscal year under this section unless the amount of  
4       appropriations for salaries, contracts, and expenses  
5       for the functions (as in existence in fiscal year 2002)  
6       of the Office of Pesticide Programs of the Environ-  
7       mental Protection Agency for the fiscal year (exclud-  
8       ing the amount of any fees appropriated for the fis-  
9       cal year) are equal to or greater than the amount of  
10      appropriations for covered functions for fiscal year  
11      2002 (excluding the amount of any fees appro-  
12      priated for the fiscal year).

13          “(3) USE OF FEES.—Registration service fees  
14      authorized by this section shall be available, in the  
15      aggregate, only to defray increases in the costs asso-  
16      ciated with the review and decisionmaking for the  
17      review of pesticide registration applications and as-  
18      sociated tolerances (including increases in the num-  
19      ber of full-time equivalent positions in the Environ-  
20      mental Protection Agency engaged in those activi-  
21      ties) over the costs for fiscal year 2002, excluding  
22      costs paid from fees appropriated for the fiscal year.

23          “(4) COMPLIANCE.—The requirements of para-  
24      graph (2) shall have been considered to have been  
25      met for any fiscal year if the amount of appropria-

1        tions for salaries, contracts, and expenses for the  
2        functions (as in existence in fiscal year 2002) of the  
3        Office of Pesticide Programs of the Environmental  
4        Protection Agency for the fiscal year (excluding the  
5        amount of any fees appropriated for the fiscal year)  
6        is not more than 3 percent below the amount of ap-  
7        propriations for covered functions for fiscal year  
8        2002 (excluding the amount of any fees appro-  
9        priated for the fiscal year).

10        “(5) SUBSEQUENT AUTHORITY.—If the Admin-  
11        istrator does not assess registration service fees  
12        under subsection (b) during any portion of a fiscal  
13        year as the result of paragraph (2) and is subse-  
14        quently permitted to assess the fees under sub-  
15        section (b) during the fiscal year, the Administrator  
16        shall assess and collect the fees, without any modi-  
17        fication in rate, at any time during the fiscal year,  
18        notwithstanding any provisions of subsection (b) re-  
19        lating to the date fees are to be paid.

20        “(e) REFORMS TO REDUCE DECISION TIME REVIEW  
21        PERIODS.—To the maximum extent practicable consistent  
22        with the degrees of risk presented by pesticides and the  
23        type of review appropriate to evaluate risks, the Adminis-  
24        trator shall identify and evaluate reforms to the pesticide  
25        registration process under this Act with the goal of reduc-

1 ing decision review periods in effect on the effective date  
 2 of the Pesticide Registration Improvement Act of 2003 for  
 3 pesticide registration actions for covered pesticide reg-  
 4 istration applications (including reduced risk applica-  
 5 tions).

6 “(f) DECISION TIME REVIEW PERIODS.—

7 “(1) IN GENERAL.—Not later than 30 days  
 8 after the effective date of the Pesticide Registration  
 9 Improvement Act of 2003, the Administrator shall  
 10 publish in the Federal Register a schedule of deci-  
 11 sion review periods for covered pesticide registration  
 12 actions and corresponding registration service fees  
 13 under this Act.

14 “(2) REPORT.—The schedule shall be the same  
 15 as the applicable schedule appearing in the Congres-  
 16 sional Record on pages S11631 through S11633,  
 17 dated September 17, 2003.

18 “(3) APPLICATIONS SUBJECT TO DECISION  
 19 TIME REVIEW PERIODS.—The decision time review  
 20 periods specified in paragraph (1) shall apply to—

21 “(A) covered pesticide registration applica-  
 22 tions subject to registration service fees under  
 23 subsection (b)(2);

24 “(B) covered pesticide registration applica-  
 25 tions for which an applicant has voluntarily

1           paid registration service fees under subsection  
2           (b)(4); and

3           “(C) covered pesticide registration applica-  
4           tions listed in the Registration Division 2003  
5           Work Plan of the Office of Pesticide Programs  
6           of the Environmental Protection Agency.

7           “(4) START OF DECISION TIME REVIEW PE-  
8           RIOD.—

9           “(A) IN GENERAL.—Except as provided in  
10          subparagraphs (C) and (D), in the case of a  
11          pesticide registration application accompanied  
12          by the registration service fee required under  
13          this section, the decision time review period be-  
14          gins 21 days after the date on which the Ad-  
15          ministrator receives the covered pesticide reg-  
16          istration application.

17          “(B) COMPLETENESS OF APPLICATION.—  
18          In conducting an initial screening of an applica-  
19          tion, the Administrator shall determine—

20                 “(i) whether—

21                         “(I) the applicable registration  
22                         service fee has been paid; or

23                         “(II) the application contains a  
24                         waiver or refund request; and

25                 “(ii) whether the application—

1 “(I) contains all necessary forms,  
 2 data, draft labeling, and, documenta-  
 3 tion certifying payment of any reg-  
 4 istration service fee required under  
 5 this section; or

6 “(II) establishes a basis for any  
 7 requested waiver or reduction.

8 “(C) APPLICATIONS WITH WAIVER OR RE-  
 9 DUCATION REQUESTS.—

10 “(i) IN GENERAL.—In the case of an  
 11 application submitted with a request for a  
 12 waiver or reduction of registration service  
 13 fees under subsection (b)(7), the decision  
 14 time review period shall be determined in  
 15 accordance with this subparagraph.

16 “(ii) REQUEST GRANTED WITH NO  
 17 ADDITIONAL FEES REQUIRED.—If the Ad-  
 18 ministrator grants the waiver or reduction  
 19 request and no additional fee is required,  
 20 the decision time review period begins on  
 21 the earlier of—

22 “(I) the date on which the Ad-  
 23 ministrator grants the request; or



1 “(II) the date that is 60 days  
2 after the date of receipt of the appli-  
3 cation.

4 “(iii) REQUEST GRANTED WITH ADDI-  
5 TIONAL FEES REQUIRED.—If the Adminis-  
6 trator grants the waiver or reduction re-  
7 quest, in whole or in part, but an addi-  
8 tional registration service fee is required,  
9 the decision time review period begins on  
10 the date on which the Administrator re-  
11 ceives certification of payment of the appli-  
12 cable registration service fee.

13 “(iv) REQUEST DENIED.—If the Ad-  
14 ministrator denies the waiver or reduction  
15 request, the decision time review period be-  
16 gins on the date on which the Adminis-  
17 trator receives certification of payment of  
18 the applicable registration service fee.

19 “(D) PENDING APPLICATIONS.—

20 “(i) IN GENERAL.—The start of the  
21 decision time review period for applications  
22 described in clause (ii) shall be the date on  
23 which the Administrator receives certifi-  
24 cation of payment of the applicable reg-  
25 istration service fee.

1 “(ii) APPLICATIONS.—Clause (i) ap-  
2 plies to—

3 “(I) covered pesticide registration  
4 applications for which voluntary fees  
5 have been paid under subsection  
6 (b)(4); and

7 “(II) covered pesticide registra-  
8 tion applications received on or after  
9 the effective date of the Pesticide  
10 Registration Improvement Act of  
11 2003 but submitted without the appli-  
12 cable registration service fee required  
13 under this section due to the inability  
14 of the Administrator to assess fees  
15 under subsection (d)(1).

16 “(E) 2003 WORK PLAN.—In the case of a  
17 covered pesticide registration application listed  
18 in the Registration Division 2003 Work Plan of  
19 the Office of Pesticide Programs of the Envi-  
20 ronmental Protection Agency, the decision time  
21 review period begins November 1, 2003.

22 “(5) EXTENSION OF DECISION TIME REVIEW  
23 PERIOD.—The Administrator and the applicant may  
24 mutually agree in writing to extend a decision time  
25 review period under this subsection.

1 “(g) JUDICIAL REVIEW.—

2 “(1) IN GENERAL.—Any applicant adversely af-  
3 fected by the failure of the Administrator to make  
4 a determination on the application of the applicant  
5 for registration of a new active ingredient or new  
6 use for which a registration service fee is paid under  
7 this section may obtain judicial review of the failure  
8 solely under this section.

9 “(2) SCOPE.—

10 “(A) IN GENERAL.—In an action brought  
11 under this subsection, the only issue on review  
12 is whether the Administrator failed to make a  
13 determination on the application specified in  
14 paragraph (1) by the end of the applicable deci-  
15 sion time review period required under sub-  
16 section (f) for the application.

17 “(B) OTHER ACTIONS.—No other action  
18 authorized or required under this section shall  
19 be judicially reviewable by a Federal or State  
20 court.

21 “(3) TIMING.—

22 “(A) IN GENERAL.—A person may not ob-  
23 tain judicial review of the failure of the Admin-  
24 istrator to make a determination on the appli-  
25 cation specified in paragraph (1) before the ex-

1           piration of the 2-year period that begins on the  
 2           date on which the decision time review period  
 3           for the application ends.

4           “(B) MEETING WITH ADMINISTRATOR.—  
 5           To be eligible to seek judicial review under this  
 6           subsection, a person seeking the review shall  
 7           first request in writing, at least 120 days before  
 8           filing the complaint for judicial review, a deci-  
 9           sion review meeting with the Administrator.

10          “(4) REMEDIES.—The Administrator may not  
 11          be required or permitted to refund any portion of a  
 12          registration service fee paid in response to a com-  
 13          plaint that the Administrator has failed to make a  
 14          determination on the covered pesticide registration  
 15          application specified in paragraph (1) by the end of  
 16          the applicable decision review period.

17          “(h) ACCOUNTING.—The Administrator shall—

18               “(1) provide an annual accounting of the reg-  
 19               istration service fees paid to the Administrator and  
 20               disbursed from the Fund, by providing financial  
 21               statements in accordance with—

22                       “(A) the Chief Financial Officers Act of  
 23                       1990 (Public Law 101–576; 104 Stat. 2838)  
 24                       and amendments made by that Act; and

1           “(B) the Government Management Reform  
2           Act of 1994 (Public Law 103–356; 108 Stat.  
3           3410) and amendments made by that Act;

4           “(2) provide an accounting describing expendi-  
5           tures from the Fund authorized under subsection  
6           (c); and

7           “(3) provide an annual accounting describing  
8           collections and expenditures authorized under sub-  
9           section (d).

10          “(i) AUDITING.—

11           “(1) FINANCIAL STATEMENTS OF AGENCIES.—  
12          For the purpose of section 3515(c) of title 31,  
13          United States Code, the Fund shall be considered a  
14          component of an executive agency.

15           “(2) COMPONENTS.—The annual audit required  
16          under sections 3515(b) and 3521 of that title of the  
17          financial statements of activities under this section  
18          shall include an analysis of—

19           “(A) the fees collected under subsection (b)  
20          and disbursed;

21           “(B) compliance with subsection (f);

22           “(C) the amount appropriated to meet the  
23          requirements of subsection (d)(1); and

24           “(D) the reasonableness of the allocation  
25          of the overhead allocation of costs associated

1 with the review and decisionmaking pertaining  
 2 to applications under this section.

3 “(3) INSPECTOR GENERAL.—The Inspector  
 4 General of the Environmental Protection Agency  
 5 shall—

6 “(A) conduct the annual audit required  
 7 under this subsection; and

8 “(B) report the findings and recommenda-  
 9 tions of the audit to the Administrator and to  
 10 the appropriate committees of Congress.

11 “(j) PERSONNEL LEVELS.—All full-time equivalent  
 12 positions supported by fees authorized and collected under  
 13 this section shall not be counted against the agency-wide  
 14 personnel level goals of the Environmental Protection  
 15 Agency.

16 “(k) REPORTS.—

17 “(1) IN GENERAL.—Not later than March 1,  
 18 2005, and each March 1 thereafter through March  
 19 1, 2009, the Administrator shall publish an annual  
 20 report describing actions taken under this section.

21 “(2) CONTENTS.—The report shall include—

22 “(A) a review of the progress made in car-  
 23 rying out each requirement of subsections (e)  
 24 and (f), including—

1 “(i) the number of applications re-  
2 viewed, including the decision times for  
3 each application specified in subsection (f);

4 “(ii) the number of actions pending in  
5 each category of actions described in sub-  
6 section (f)(3), as well as the number of  
7 inert ingredients;

8 “(iii) to the extent determined appro-  
9 priate by the Administrator and consistent  
10 with the authorities of the Administrator  
11 and limitations on delegation of functions  
12 by the Administrator, recommendations  
13 for—

14 “(I) expanding the use of self-  
15 certification in all appropriate areas of  
16 the registration process;

17 “(II) providing for accreditation  
18 of outside reviewers and the use of  
19 outside reviewers to conduct the re-  
20 view of major portions of applications;  
21 and

22 “(III) reviewing the scope of use  
23 of the notification process to cover  
24 broader categories of registration ac-  
25 tions; and

1 “(iv) the use of performance-based  
2 contracts, other contracts, and procure-  
3 ment to ensure that—

4 “(I) the goals of this Act for the  
5 timely review of applications for reg-  
6 istration are met; and

7 “(II) the registration program is  
8 administered in the most productive  
9 and cost effective manner practicable;

10 “(B) a description of the staffing and re-  
11 sources relating to the costs associated with the  
12 review and decisionmaking pertaining to appli-  
13 cations; and

14 “(C) a review of the progress in meeting  
15 the timeline requirements of section 4(g).

16 “(3) METHOD.—The Administrator shall pub-  
17 lish a report required by this subsection by such  
18 method as the Administrator determines to be the  
19 most effective for efficiently disseminating the re-  
20 port, including publication of the report on the  
21 Internet site of the Environmental Protection Agen-  
22 cy.

23 “(1) SAVINGS CLAUSE.—Nothing in this section af-  
24 fects any other duties, obligations, or authorities estab-  
25 lished by any other section of this Act, including the right



1 to judicial review of duties, obligations, or authorities es-  
2 tablished by any other section of this Act.

3 “(m) TERMINATION OF EFFECTIVENESS.—

4 “(1) IN GENERAL.—Except as provided in para-  
5 graph (2), the authority provided by this section ter-  
6 minates on September 30, 2008.

7 “(2) PHASE OUT.—

8 “(A) FISCAL YEAR 2009.—During fiscal  
9 year 2009, the requirement to pay and collect  
10 registration service fees applies, except that the  
11 level of registration service fees payable under  
12 this section shall be reduced 40 percent below  
13 the level in effect on September 30, 2008.

14 “(B) FISCAL YEAR 2010.—During fiscal  
15 year 2010, the requirement to pay and collect  
16 registration service fees applies, except that the  
17 level of registration service fees payable under  
18 this section shall be reduced 70 percent below  
19 the level in effect on September 30, 2008.

20 “(C) SEPTEMBER 30, 2010.—Effective Sep-  
21 tember 30, 2010, the requirement to pay and  
22 collect registration service fees terminates.

23 “(D) DECISION REVIEW PERIODS.—

24 “(i) PENDING APPLICATIONS.—In the  
25 case of an application received under this

1                   section before September 30, 2008, the ap-  
 2                   plication shall be reviewed in accordance  
 3                   with subsection (f).

4                   “(ii) NEW APPLICATIONS.—In the  
 5                   case of an application received under this  
 6                   section on or after September 30, 2008,  
 7                   subsection (f) shall not apply to the appli-  
 8                   cation.”.

9           (g) CONFORMING AMENDMENTS.—The table of con-  
 10           tents in section 1(b) of the Federal Insecticide, Fungicide,  
 11           and Rodenticide Act (7 U.S.C. prec. 136) is amended—

12                   (1) by striking the item relating to section  
 13                   4(k)(3) and inserting the following:

                  “(3) Review of inert ingredients; expedited processing of  
 similar applications.”;

14                   and

15                   (2) by striking the items relating to sections 30  
 16                   and 31 and inserting the following:

                  “Sec. 30. Minimum requirements for training of maintenance applicators and  
 service technicians.

                  “Sec. 31. Environmental Protection Agency minor use program.

                  “Sec. 32. Department of Agriculture minor use program.

                  “(a) In general.

                  “(b)(1) Minor use pesticide data.

                  “(2) Minor Use Pesticide Data Revolving Fund.

                  “Sec. 33. Pesticide registration service fees.

- “(a) Definition of costs.
- “(b) Fees.
  - “(1) In general.
  - “(2) Covered pesticide registration applications.
  - “(3) Schedule of covered applications and registration service fees.
  - “(4) Pending pesticide registration applications.
  - “(5) Resubmission of pesticide registration applications.
  - “(6) Fee adjustment.
  - “(7) Waivers and reductions.
  - “(8) Refunds.
- “(c) Pesticide Registration Fund.
  - “(1) Establishment.
  - “(2) Transfers to Fund.
  - “(3) Expenditures from Fund.
  - “(4) Collections and appropriations Acts.
  - “(5) Unused funds.
- “(d) Assessment of fees.
  - “(1) Definition of covered functions.
  - “(2) Minimum amount of appropriations.
  - “(3) Use of fees.
  - “(4) Compliance.
  - “(5) Subsequent authority.
- “(e) Reforms to reduce decision time review periods.
- “(f) Decision time review periods.
  - “(1) In general.
  - “(2) Report.
  - “(3) Applications subject to decision time review periods.
  - “(4) Start of decision time review period.
  - “(5) Extension of decision time review period.
- “(g) Judicial review.
  - “(1) In general.
  - “(2) Scope.
  - “(3) Timing.
  - “(4) Remedies.
- “(h) Accounting.
- “(i) Auditing.
  - “(1) Financial statements of agencies.
  - “(2) Components.
  - “(3) Inspector General.
- “(j) Personnel levels.
- “(k) Reports.
  - “(1) In general.
  - “(2) Contents.
- “(l) Savings clause.
- “(m) Termination of effectiveness.
  - “(1) In general.
  - “(2) Phase out.
- “Sec. 34. Severability.
- “Sec. 35. Authorization for appropriations.”.

1       (h) EFFECTIVE DATE.—This section and the amend-  
2   ments made by this section take effect on October 1, 2003.

○